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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/865,665	05/25/2001	Harald Apfelthaler	KWO-17902/01	9896

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EXAMINER

COZART, JERMIE E

ART UNIT	PAPER NUMBER
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3726

DATE MAILED: 01/13/2004

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/865,665

Applicant(s)

APFELTHALER, HARALD

Examiner

Jermie Cozart

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 15-33 is/are pending in the application.
- 4a) Of the above claim(s) 15-19 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 20-25 and 27-33 is/are rejected.
- 7) ☒ Claim(s) 26 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

Specification

1. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed. The following title is suggested: Device for Installing Muntin Bars into a Frame.
2. The abstract of the disclosure is objected to because on line 8, it is suggested to change "or the like" to - -or similar type fasteners- -. Correction is required. See MPEP § 608.01(b).

Claim Objections

3. Claims 27 and 29-33 are objected to because of the following informalities: In claim 27, line 3, it is suggested to change "or" to - -and- -; In claim 29, line 1, it is suggested to insert - -a- - after "comprise"; In claim 30, line 2, it is suggested to - -to- - after "adapted", change "moved" to - -move- -, delete "the" preceding "movably", line 3, insert - -, - - after "devices", and delete "can be"; In claim 32, line 4, it is suggested to change "device," to - -device- -, delete "the" preceding "screwing", line 4, delete "process". Appropriate correction is required.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
5. Claims 22, 23, and 27-33 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

6. Claim 22 recites the limitation "the latter ones" in line 3 of the claim. There is insufficient antecedent basis for this limitation in the claim.
7. Claim 27 recites the limitation "said tie-bar bodies" in line 3 of the claim. There is insufficient antecedent basis for this limitation in the claim.
8. Claim 31 recites the limitation "the frame" in line 6 of the claim. There is insufficient antecedent basis for this limitation in the claim.
9. Claim 31 recites the limitation "the spacer frame profile" in line 7 of the claim. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 20, 21, 24, and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Applicant's Admitted Prior Art (AAPA) in view of Anderson (5,617,622).

AAPA discloses at page 1, lines 10-22 of the specification, a device such as by mounting tables and platforms for positioning a muntin within a spacer frame, and apparatus such as pneumatically operated hammer for arranging and fixing the muntin in the spacer frame.

AAPA, however, does not disclose a mounting frame, the mounting frame being inclined with respect to a vertical plane, tie-bars movably supported by the mounting

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frame for fixing and machining spacer frames of different sizes together with the muntin, the mounting frame being inclined between 0 and 90 degrees with respect to the vertical plane, a basis frame onto which the mounting frame is arranged, wherein the mounting frame is provided with at least one frame stretcher pivotally connected thereto so that that the mounting frame can be adjusted with respect to the vertical plane, or the basis frame comprise footings.

Anderson discloses a mounting frame (10), the mounting frame being inclined with respect to a vertical plane, tie-bars (28) movably supported by the mounting frame for fixing and machining spacer frames of different sizes, the mounting frame being inclined between 0 and 90 degrees with respect to the vertical plane, a basis frame (12) onto which the mounting frame is arranged, wherein the mounting frame is provided with at least one frame stretcher (42) pivotally connected thereto so that that the mounting frame can be adjusted with respect to the vertical plane meaning that once the frame is rotated in the vertical plane the frame stretcher allows the frame size to be adjusted, and the basis frame comprise footings (74). *See column 6, line 21 – column, line 57, and Figures 1, 2, 6, and 8 for further clarification.*

Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to provide the mounting table or platform of AAPA with a mounting frame wherein the mounting frame is inclined with respect to a vertical plane between 0 and 90 degrees with respect to the vertical plane, tie-bars movably supported by the mounting frame for fixing and machining spacer frames of different sizes together, to provide a basis frame having footings onto which the mounting frame is arranged

wherein the mounting frame is provided with at least one frame stretcher pivotally connected thereto so that the mounting frame can be adjusted with respect to the vertical plane, in light of the teachings of Anderson, in order to effectively assemble and form structural frames.

Allowable Subject Matter

12. Claims 22, 23, and 27-33 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

13. Claim 26 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

14. Telephone inquiries regarding the status of applications or other general questions, by persons entitled to the information, should be directed to the group clerical personnel. In as much as the official records and applications are located in the clerical section of the examining groups, the clerical personnel can readily provide status information. M.P.E.P. 203.08. The Group clerical receptionist number is (703) 308-1148.

15. If in receiving this Office Action it is apparent to applicant that certain documents are missing, e.g., copies of references cited, form PTO-1449, form PTO-892, etc., requests for copies of such papers or other general questions should be directed to

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Tech Center 3700 Customer Service at (703) 306-5648, or fax (703) 872-9301 or by email to CustomerService3700@uspto.gov.

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jermie Cozart whose telephone number is 703-305-0126. The examiner can normally be reached on Monday-Thursday, 7:30 am - 6:00 pm.

17. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Vo can be reached on 703-308-1789. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

Listed below are a few helpful numbers and web address for The United States Patent and Trademark Office.

Allowed Files & Publication	(703) 308-6789 or (888) 786-0101
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Drawing Corrections/Draftsman	(703) 305-8404 or (703) 305-8335
Petitions/Special Programs	(703) 305-9285
Terminal Disclaimers	(703) 305-8408
PCT Help Desk	(703) 305-3257
Information Help Line	(800) 786-9199
Internet PTO-Home Page	http:// www.uspto.gov

Jermie E. Cozart

JC *[Signature]*
January 9, 2004